

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

J&J Sports Productions, Inc.,)	
)	Civil Action No.: 3:17-cv-02413-JMC
Plaintiff,)	
)	
v.)	ORDER AND OPINION
)	
800 Grand Family, LLC, <i>doing</i>)	
<i>Business as Skores, also known as</i>)	
Primetime Sports Bar and Grill;)	
and Sandra F. Simpkins,)	
)	
Defendants.)	
_____)	

This matter is before the court for review of Magistrate Judge Shiva V. Hodges’s (“Magistrate Judge”) Report and Recommendation (“Report”) filed on October 1, 2018 (ECF No. 40). The Report addresses Plaintiff J&J Sports Productions, Inc.’s Motion for Summary Judgment and recommends that the court grant the Motion. (ECF No. 40 at 9–10.) For the reasons stated herein, the court **ACCEPTS** the Report and **GRANTS** the Motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Report sets forth the relevant facts and legal standards which this court incorporates herein without a full recitation. (ECF No. 21 at 1.) As brief background, Plaintiff filed its Complaint on September 8, 2017, alleging causes of action for conversion and violations of the Communications Act of 1934 (as amended, 47 U.S.C. § 605) and the Cable & Television Consumer Protection and Competition Act of 1992 (as amended, 47 U.S.C. § 554) against Defendant 800 Grand Family, LLC (“Grand Family”), d/b/a/ Skores, a/k/a/ Primetime Sports Bar and Grill (the “Establishment”), and its member Defendant Sandra F. Simpkins (“Simpkins”) (collectively “Defendants”). (ECF No. 1.) Grand Family has not made a proper appearance in

this court, and the court entered default against it on November 3, 2017. (ECF No. 13.) On August 3, 2018, Plaintiff filed a Motion for Summary Judgment. (ECF No. 30.) The Magistrate Judge issued a *Roseboro* Order¹ on August 6, 2018, to Simpkins as she is proceeding *pro se* and advised her of the consequences of failing to respond to Plaintiff's Motion. (ECF No. 31.) On that same day, the *Roseboro* Order was mailed to Simpkins. (ECF No. 32.) Simpkins filed a Response in Opposition to the Motion for Summary Judgment on September 7, 2018. (ECF No. 36.) Plaintiff filed a Reply to Simpkins's Response on September 17, 2018. (ECF No. 39.)

The Magistrate Judge filed the Report on October 1, 2018. (ECF No. 40.) The Report concluded that Grand Family violated 47 U.S.C. § 553 by broadcasting a program to which Plaintiff had exclusive commercial distribution rights without paying a commercial licensing fee or obtaining permission to broadcast the program. (ECF No. 40 at 2–3.) The Report recommended statutory damages of \$3,250.00, which is the amount equal to a license fee plus the gross profit. (*Id.* at 7.) The Report found that Simpkins is individually liable, jointly and severally with Grand Family, for the basic statutory damages of \$3,250.00 because she “had the right and ability to supervise all activities at the Establishment and also had a strong financial interest in such activities.” (*Id.* at 7–8.) The Report recommended imposing on Grand Family enhanced statutory damages of \$9,750.00, the amount equal to three times the basic statutory damages, because the manager of the Establishment willfully diverted the program. (*Id.* at 8.) The Report recommended granting Plaintiff's request for attorneys' fees and directed Plaintiff to file an affidavit of its attorneys' fees within 14 days. (*Id.* at 9.) 47 U.S.C. § 553(c)(2)(C) states that the court may “direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.” The parties were apprised of their opportunity to file

¹ A *Roseboro* Order requires district courts to provide an explanation of summary judgment procedures in habeas corpus cases. *See Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 1975).

objections to the Report on October 1, 2018. (ECF No. 40 at 9.) Neither party objected to the Report.

Plaintiff filed a timely Affidavit as to Attorney Fees and Costs (ECF No. 44) on October 12, 2018, for an award of one thousand five hundred dollars (\$1,500.00) in attorneys' fees and one thousand three hundred forty-one dollars and nine cents (\$1,341.09) in expenses. (*Id.*) After reviewing Plaintiff's Motion and Affidavit, the court finds that Plaintiff's request for fees is reasonable and that Plaintiff is entitled to an award of attorney's fees under § 553(c)(2)(C) in the requested amount.

II. STANDARD OF REVIEW

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge only makes a recommendation to this court, and the recommendation has no presumptive weight. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The responsibility to make a final determination remains with the court. *Id.* at 271. As such, the court is charged with making *de novo* determinations of those portions of the Report and Recommendation to which specific objections are made. *See* 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). Thus, the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

III. DISCUSSION

In the absence of specific objections to the Magistrate Judge's Report, the court is not required to give any explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Furthermore, a failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the court based upon such

recommendation. 28 U.S.C. § 636(b)(1). The court concludes that the Magistrate Judge's Report accurately summarizes the law and correctly applies it to the instant Complaint. (ECF No. 1.) Since no specific objections were filed by either party, the court adopts the Report herein. *Camby*, 718 F.2d at 199.

IV. CONCLUSION

After a thorough review of the Report and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 40) and incorporates it herein. The court **GRANTS** Plaintiff's Motion for Summary Judgment (ECF No. 30) and (1) awards Plaintiff general statutory damages of \$3,250.00 jointly and severally against Defendants Simpkins and Grand Family; (2) awards enhanced damages of \$9,750.00 against Grand Family; and (3) grants \$1,500.00 in attorneys' fees and \$1,341.09 in expenses.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

October 25, 2018
Columbia, South Carolina